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In re Application of ZHONGLIN et al :
U.S. Application No.: 10/562,778 :
PCT Application No.: PCT/AU2004/000873 :
Int. Filing Date: 30 June 2004 :
Priority Date Claimed: 01 July 2003 : DECISION
Attorney Docket No.: 2354/370 :
For: METHODS AND COMPOSITIONS FOR :
TREATING DISORDERS OF THE :
EXTRACELLULAR MATRIX :

This is in response to applicant's "Request for Correction of Inventorship Under 37 C.F.R. § 1.497(d)" filed 12 December 2006.

BACKGROUND

On 30 June 2004, applicant filed international application PCT/AU2004/000873, which claimed priority of an earlier Australia application filed 01 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 13 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 01 January 2006.

On 29 December 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 April 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 27 July 2006, applicant filed an executed declaration.

On 13 November 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 27 July 2006 listed inventors who are not listed as inventors in the international application.

On 12 December 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Mark Cooper and Zemin Cao should be added as inventors.

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, written consent of the assignee has been provided.

Although the petition is sufficient to add Mark Cooper and Zemin Cao as inventors, the declaration lists the first inventor as Zhonglin Chai, whereas the international application and the application data sheet (ADS) filed 29 December 2005 lists the first inventor as Chai Zhonglin. The petition under 37 CFR 1.497(d) does not satisfy items (1) and (3) with respect to the first inventor.

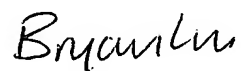
CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450; with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "Bryan Lin".

Bryan Lin
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